



From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 72.2)

To:

0P082368-001500PC

SHIMIZU, Hatsushi
Kantetsu Tsukuba Bldg. 6F
1-1-1, Oroshi-machi
Tsuchiura-shi, Ibaraki 300-0847
JAPON

Date of mailing (day/month/year) 09 December 2004 (09.12.2004)	
Applicant's or agent's file reference E1-A0305Y1P	IMPORTANT NOTIFICATION
International application No. PCT/JP2003/007721 ✓	International filing date (day/month/year) 18 June 2003 (18.06.2003) ✓
Applicant EISAI CO., LTD. et al	

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

AZ, CA, CH, CN, CO, EP, GH, KG, KR, MK, MZ, RO, RU, TM

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, BA, BB, BG, BR, BY, BZ, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, ES, FI, GB, GD, GE, GM, HR, HU, ID, IL, IN, IS, JP, KE, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MN, MW, MX, NI, NO, NZ, OA, OM, PG, PH, PL, PT, SC, SD, SE, SG, SK, SL, TJ, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Yoshiko Kuwahara

Facsimile No.+41 22 740 14 35

Facsimile No.+41 22 338 90 90

Translation

PATENT COOPERATION TREATY

PCT/JP2003/007721



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference E1-A0305Y1P	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/JP2003/007721	International filing date (day/month/year) 18 June 2003 (18.06.2003)	Priority date (day/month/year) 18 June 2002 (18.06.2002)
International Patent Classification (IPC) or national classification and IPC C12N 5/10, 15/09, A61K 48/00		
Applicant EISAI CO., LTD.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of _____ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 28 November 2003 (28.11.2003)	Date of completion of this report 01 April 2004 (01.04.2004)
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP2003/007721

I. Basis of the report

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed
- ☐ the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the claims:
 pages _____, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the drawings:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP03/07721

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application.

☒ claims Nos. 12-15

because:

☒ the said international application, or the said claims Nos. 12-15 relate to the following subject matter which does not require an international preliminary examination (*specify*):

The inventions of claims 12-15 concern a method for treating the human body by therapy, which does not require an international preliminary examination by the International Preliminary Examining Authority.

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____ are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claims Nos. 12-15

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the standard.

☐ the computer readable form has not been furnished or does not comply with the standard.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP03/07721

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	1-11, 16	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-11, 16	NO
Industrial applicability (IA)	Claims	1-11, 16	YES
	Claims		NO

2. Citations and explanations

Document 1: FEBS Lett., 2001, Vol. 509, No. 1, p. 106-110
Document 2: Cell Transplant, 1993, Vol. 2, No. 5, p. 381-400
Document 3: Histochem Cell Biol., 2001, Vol. 115, No. 1, p. 73-82
Document 4: J Lipid Res., 2000, Vol. 41, No. 7, p. 1082-1086.

Claims 1-11 and 16

The inventions of claims 1-11 and 16 lack an inventive step with respect to document 1 cited in the international search report.

Document 1 states that if a preproinsulin gene is inserted into adipose cells, they can correct hyperglycemia in a diabetes mouse model. In addition, as described in documents 2 and 3, the *ex vivo* gene therapy method, in which a desired gene is inserted into cells removed from patients and then the cells containing that gene are returned to the body, is well known. Moreover, document 4 describes a method for inserting a gene into primarily cultured adipose cells. Therefore, it is obvious to persons skilled in the art to introduce a desired gene such as the preproinsulin gene, etc., into primarily cultured adipose cells as described in document 4 and then attempt to use the adipose cells containing that gene in gene therapy. Furthermore, this examination finds that no particularly outstanding effect is obtained by adopting the constitution of the inventions of claims 1-11 and 16.